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FILED
MAY 17 2007
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(P)

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7 UNITED STATES DISTRICT COURT

EDL

8 NORTHERN DISTRICT OF CALIFORNIA

9
10 SUSAN MCDONALD,

11 Plaintiff,

12 vs.

13 UNITED AIRLINES,

14 Defendants.

) Case No. **107**

2626

15 **COMPLAINT FOR DAMAGES**

16 (Personal Injuries) (Jury Trial Demanded)

20
21 **FIRST CAUSE OF ACTION AGAINST DEFENDANT UNITED AIRLINES,**

22 **(Montreal Convention):**

24 COMES NOW plaintiff, SUSAN MCDONALD, and for a First Cause of Action against
25 defendant UNITED AIRLINES, complains and alleges as follows:

26 1. This action is brought pursuant to 28 U.S.C. §1331 in that the action arises under
27 the provisions of the Convention For The Unification of Certain Rules Relating to International
28 Carriage by Air (hereinafter "Montreal Convention"), a Treaty of the United States. The action
29

1 is also brought pursuant to 28 U.S.C. § 1332. In addition, the amount in controversy is in excess
2 of \$75,000, exclusive of interest and costs.

3 2. At all times herein mentioned plaintiff SUSAN MCDONALD was and is a
4 resident of the State of California, residing in San Francisco, California.

5 3. Plaintiffs are informed and believe that defendant united airlines is corporation
6 with its principal place of business in the San Francisco. Defendant UNITED AIRLINES is and
7 was doing business in this District. Venue is proper in this court pursuant to Article 33 of the
8 Montreal Convention.

9 4. At all times herein mentioned, defendant UNITED AIRLINES was a common
10 carrier for hire engaged in the transportation of passengers in both domestic and international air
11 travel. Said defendant owned, operated, controlled, serviced, maintained and flew, through its
12 agents and employees acting in the course and scope of their employment, certain aircraft
13 including that aircraft used as Flight No. 931 on September 19, 2006 from London, England to
14 San Francisco, California.

15 5. On or about September 19, 2006 plaintiff SUSAN MCDONALD was a fare-
16 paying passenger on board UNITED AIRLINES Flight No. 931, an international flight from
17 London, England to San Francisco, California pursuant to a ticket purchased in the United States
18 providing for round trip transportation with the final destination being San Francisco, California.

20 6. As a direct and proximate result of the conduct of defendant UNITED
21 AIRLINES, and those employees and agents acted on its behalf, was horribly burned by scalding
22 hot coffee while a passenger on said flight. Said event is an "accident" within the meaning of the
23 Montreal Convention.

24 7. Prior to and at the time of the incident as aforedescribed, defendant UNITED
25 AIRLINES, through its agents and employees, negligently and carelessly owned, operated,
26 controlled, serviced, maintained and flew and operated said aircraft, and hired, trained and
27 supervised the flight and cabin crew, thereby proximately causing said accident.

8. As proximate result thereof this plaintiff sustained permanent bodily injuries, and has had and in the future will have pain, suffering, worry and anxiety, all to plaintiff's general damages in an amount within the jurisdiction of the Court, and according to proof.

9. As a proximate result thereof this plaintiff incurred and in the future will incur medical and related expenses all to plaintiff's damage in such amount as will be proven at trial.

10. As a proximate result thereof this plaintiff has and in the future will lose the ability to do plaintiff's usual work, and has and will have lost earning capacity all to plaintiff's damage in such amount as will be proven at trial.

11. As a proximate result thereof, certain property belonging to this plaintiff was
damaged in such an amount as will be proven at trial.

12. As a proximate result thereof plaintiff has lost the use of and interest on the money owed to plaintiff from the date of this incident to judgment as follows:

- A. On the medical expenses incurred to judgment.
- B. On the loss of earnings to judgment.
- C. On property damaged and destroyed.

SECOND CAUSE OF ACTION AGAINST DEFENDANT UNITED AIRLINES

(IATA Agreements)

13. Plaintiffs repeats and re-alleges paragraphs 1 through 12, inclusive of the First Cause of Action, and incorporates the same by reference as though fully set forth.

14. Prior to September 19, 2006 the defendant UNITED AIRLINES, entered into agreements sponsored and promoted by the International Air Transport Association (IATA), including but not limited to, the IATA Inter-Carrier Agreement on Passenger Liability (IIA) and the Agreement on Measures to Implement the IIA (MIA).

15. Pursuant to the Agreements as aforesigned, the defendant UNITED AIRLINES, and all other airline signatories agreed to waive all limits of damages set forth in the

1 Montreal Convention, Hague Protocol or Montreal Interim Agreements unless and upon proof by
2 the airline that all necessary measures had been taken to avoid the accident in which case a limit
3 of liability up to 100,000 Special Drawing Rights (SDR) existed.

4 16. Plaintiff became a third party beneficiary of the aforescribed Agreements upon
5 purchase of plaintiff's ticket for the subject flight.

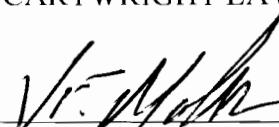
6 17. The defendant did not take all necessary measures to avoid said accident as
7 previously described.

8 **WHEREFORE**, plaintiff SUSAN MCDONALD prays judgment as against defendant
9 UNITED AIRLINES, as follows:

10 1. For general damages in an amount as proven, and no less than \$75,000.00,
11 together with prejudgment interest on all such amounts from the date of the
12 accident until paid as permitted by law;
13 2. For medical and related expenses according to proof;
14 3. For loss of earnings and earnings capacity according to proof;
15 4. For prejudgment interest on such items as is permitted by law;
16 5. For costs of suit incurred herein; and
17 6. For such other and further relief as to this court may seem just and proper.

19 Dated: May 15, 2007
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21 THE CARTWRIGHT LAW FIRM, INC

23 By: 

24 JOHN F. MORKEN, ESQ.

25 *Attorneys for Plaintiff Susan McDonald*

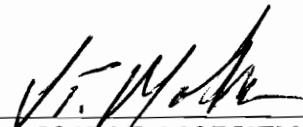
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2 **DEMAND FOR JURY TRIAL**
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6 Plaintiff SUSAN MCDONALD hereby demands a trial by jury in the above-entitled
7 matter.
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9 THE CARTWRIGHT LAW FIRM, INC.
10

11 BY: 
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13 JOHN F. MORKEN, ESQ.
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15 *Attorneys for Plaintiff Susan McDonald*
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